

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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RACHEL DENISE SPAIN,

97 CV 7418
ORDER

Plaintiff,

-against-

KENNETH S. APFEL, COMMISSIONER,
SOCIAL SECURITY ADMINISTRATION,

Defendant.

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RACHEL DENISE SPAIN
2678 Linden Blvd., apt. 1E
Brooklyn, New York 11207
plaintiff pro se.

ZACHARY W. CARTER, United States Attorney
Eastern District of New York
One Pierrepont Plaza
Brooklyn, New York 11201
for defendant.

NICKERSON, District Judge:

Claimant moves for appointment of counsel. Cooper v. A. Sargenti Co., 877 F.2d 170 (2d Cir. 1989), articulates the factors the court must consider before appointing counsel for an indigent litigant: (1) whether the indigent's position seems likely to be of

substance, (2) the indigent's ability to investigate the crucial facts, (3) whether conflicting evidence implicating the need for cross-examination will be the major proof presented to the fact finder, (4) the indigent's ability to present the case or obtain private counsel, (5) the complexity of the legal issues, (6) the availability of counsel, (7) and special reasons why appointment of counsel would be likely to lead to a more just determination.

In Cooper, the court said that only if, after close scrutiny of the merits of the claim, the court finds it to be of substance should the other criteria be considered. 877 F.2d at 172, quoting Hodge v. Police Officers, 802 F.2d 58 (2d Cir. 1986).

The court has reviewed claimant's claim and cannot at this time say whether it is likely to be of substance. The court thus does not consider the other factors. The motion for appointment of counsel is denied. The court will reconsider the motion on renewal as the case progresses.

So ordered.

Dated: Brooklyn, New York
May 1, 1998

Eugene H. Nickerson
Eugene H. Nickerson, U.S.D.J.